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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

May 29, 2014

VIA CERTIFIED MAIL #7012 1010 0003 7399 1774
RETURN RECEIPT REQUESTED

VIA EMAIL

Mr. David Askanase
Hughes Watters & Askanase LLP
Three Allen Center
333 Clay, 29th Floor
Houston, Texas 77002
daskanase@hwallp.com

RE: Request to Conduct Necessary Response Activities
CES Environmental Services (located at 4904 Griggs Road, Houston, Texas)

Dear Mr. Askanase:

The Texas Commission on Environmental Quality ("TCEQ") acknowledges the May 23, 2014 receipt of your prioritized list of response activities (enclosed) planned at the CES facility at 4904 Griggs Road in Houston, Texas. The proposed response actions, if properly implemented, are reasonable initial steps to alleviate the conditions at the site, which may pose an imminent and substantial endangerment to public health and safety or the environment due to a release or threatened release of hazardous substances. Based upon previous conversations, it is TCEQ's understanding that, within five business days from receipt of this letter, you will file a motion in the Bankruptcy Court requesting that Judge Bohm order the release of funds to finance these response actions. Please let us know when this motion has been filed.

Further, TCEQ requires the Trustee keep TCEQ apprised of all waste management activities occurring at the facility. At a minimum, TCEQ requires a written weekly status report delivered by close of business each Thursday for the duration of the waste management activities being conducted at the site. Submittal of this report will begin with the initiation of the first response action on the submitted prioritized list. The weekly report will document the initiation and completion of each successive response activity enumerated on the submitted list. The written status report should be sent to me at the address below, or by email at: Nicole.Bealle@tceq.texas.gov.

Included in the weekly report provided to TCEQ Region 12, please include copies of all paperwork associated with all waste management activities occurring at the facility during the preceding week; including, but not limited to:

- 1) For waste disposed of off-site, waste manifests and applicable Land Disposal Restriction documentation in accordance with waste manifesting and disposal regulations in the Texas Administrative Code (TAC) and the Code of Federal Regulation (CFR). For incinerated waste, provide certificates of destruction.

Mr. David Askanase

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- 2) For each sale of a bankruptcy estate asset that contained or was contaminated with industrial, hazardous or universal waste, the associated sales contract, sales receipts, waste volume, waste classification, disposal information or decontamination procedures, as appropriate.
- 3) For any waste characterization performed, sample results including all data obtained from waste characterizations performed in accordance with 30 TAC 335.62 and 40 CFR Parts 261, 264, 265, 266, 267, 268, and 273, as appropriate..
- 4) For waste management unit (e.g., tanks, containers) or scrap material that is being recycled and/or reclaimed, and removed from the site, documentation of the decontamination procedures necessary to demonstrate compliance with state and federal regulations.
- 5) Sample results from perimeter air monitoring procedures employed during all waste management activities.

Copied paperwork must be submitted to me at the letterhead address. In addition to the weekly reports of on-going waste management actions at the site, TCEQ requires the Trustee provide the Region with a complete list of waste known to be on the site, along with any analytical or waste characterization data available for the identified waste. While TCEQ has received waste analysis results from a 2011 sampling of a portion of the site's waste management units, no results have been submitted for other waste management units (e.g., Vacuum Box Nos. 617, 633, 639, and 610). Additionally, waste management activities conducted since the 2011 sampling has added additional waste to some previously sampled waste units, making the 2011 data unusable for waste disposal. A list of these units should also be provided. This list should be delivered to me by June 21, 2014.

The prevention of exposure of the area's residents, school children and other inhabitants to hazardous substances at the facility is of the highest priority to the TCEQ. If satisfactory progress is not made in alleviating current site conditions, the TCEQ may initiate a response action. The TCEQ will seek recovery of any costs associated with the response action from all responsible parties.

Sincerely,



Nicole M. Bealle, P.G.
Special Assistant to the Regional Director
Manager, Emergency Response
Texas Commission on Environmental Quality
Region 12 - Houston Office

Enclosure: CES Environmental Services, Inc. Timeline for use of funds

cc: Ms. Denise Hubert, Bankruptcy Section, Office of Legal Services, TCEQ
Ms. Abby Ryan, Bankruptcy Section, Office of Legal Services, TCEQ
Ms. Tammy Mitchell, Litigation Division, Office of Legal Services, TCEQ
Mr. Hal Morris, OAG
Ms. Ashley Bartram, OAG
Ms. Monica Harris, Remediation Division, TCEQ
Mr. Jason Ybarra, TCEQ Region 12 - Houston
Ms. Ashley K. Wadick, TCEQ Region 12 - Houston

CES Environmental Services, Inc.
Timeline for use of funds

1. Dispose of waste in Vacuum Box 601

Estimated cost: \$15,000.00

Completion: 10 business days after approval of Emergency Motion

The cost estimate is inclusive of current analytical for waste classification and disposal. A third party contractor (e.g., IKON) is to obtain a current sample to establish a disposal profile. The sampling is planned to be done prior to the approval of the Emergency Motion. The vacuum box (VB) would have the material transferred to a transport worthy container prior to disposal. The 10 day is the maximum time frame between transfer and disposal, though not anticipated to take 10 days to transfer and send off site to the disposal facility.

2. Dispose of waste in Vacuum Box 617

Estimated cost: \$28,000.00

Completion: 15 business days after approval of Emergency Motion\\

The initial information provided noted VB 633. The change was made to the identified box to address the leaking condition of VB617. The cost estimate is worst case (incineration). There are no current sample results available and samples are to be taken, analyzed and used to establish waste classification and a profile for disposal. The sampling is planned to be done prior to the approval of the Emergency Motion. The vacuum box (VB) would have the material transferred to a transport worthy container prior to disposal. The 15 day is the maximum time frame between transfer and disposal, though not anticipated to take 15 days to transfer and send off site to the disposal facility.

3. Sample waste material “dumped” on ground by vandals

Estimated cost: \$6,000.00

Completion: Depends on time taken by sampling facility. Should take 2-2 ½ weeks to get result but may be up to 30 calendar days

The ‘dumped’ material is inclusive of three areas. The older pile that is covered at the rear of the property; the pile that was recently scrapped and covered by the state action located at the rear of the property; and the pile next to VB 617. You indicated a grid sampling approach and compositing the grid collected sample aliquot. This analytical would determine waste classification and disposal options. The estimated cost is inclusive of the sampling and disposal. The 30 days is inclusive of sampling, analysis time frame and final disposal.

Within three business days of getting the sampling results, will contact environmental remediation companies for cost and time estimates for disposal of the “dumped” waste.

4. Dispose of as much of the “dumped” waste as costs allow up to \$51,000.00
Estimated cost: a maximum of \$51,000.00
Completion: Will require another Emergency Motion once cost is known and at that time a completion date can be determined. This second Emergency Motion will be filed within three business days of obtaining an acceptable bid for disposal.
5. The open topped white containers, towards the front of the facility, are to be addressed to prevent releases which would also include waste classification and appropriate on-site management of the material. The material was removed from the tanker trailer in the front warehouse as a result of a vandalism event.

Notes:

- a. The estate is retaining funds for emergencies. Once numbers 1, 2 & 3 are completed AND the cost of 4 is known, new priorities will be established within 7 business days.
- b. When the TCEQ agrees with this timeline, the estate will file an Emergency Motion to hire and pay contractor(s) for 1, 2 & 3. This will be filed within 5 business days, sooner if possible. The Emergency Motion will contain a provision for up to a 15% upward variance in costs, if needed. This will impact the amount available for 4.